

SECOND REGULAR SESSION

# SENATE BILL NO. 901

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 4, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4113S.02I

## AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to state purchasing.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 34, RSMo, is amended by adding thereto one new  
2 section, to be known as section 34.041, to read as follows:

**34.041. 1. On any purchase where the estimated expenditure  
2 shall be ten million dollars or less and the contract for supplies shall  
3 not exceed twelve months, the commissioner of administration may  
4 waive the requirements of competitive bids under section 34.040 and  
5 competitive proposals under section 34.042 when the commissioner  
6 finds that waiving such bid or proposal process and negotiating and  
7 securing a new contract in an expedited manner would result in the  
8 avoidance of an annual opportunity cost of five percent or more for the  
9 contract.**

10 **2. On any purchase described in subsection 1 of this section, the  
11 commissioner shall:**

12 **(1) Post notice of the proposed purchase, including posting  
13 notice at least ten business days in advance of signing a contract of  
14 such purchase on the office of administration's website;**

15 **(2) Fifteen business days before signing the contract, make  
16 available to the state auditor, the minority and majority leadership of  
17 the general assembly, and the chair of the appropriations committee of  
18 the senate and the budget committee of the house of representatives,  
19 information pertaining to the contract, including the names of offerors,  
20 the amount each is offering for each contract, and the cost savings the  
21 commissioner projects to be realized by securing the contract under**

22 this section;

23 (3) Give the state auditor access to sufficient data to audit the  
24 annual savings realized by negotiating and securing contracts under  
25 this section; and

26 (4) Not extend the contract unless the commissioner finds that  
27 doing so is necessary to allow for time to carry out the competitive bid  
28 process under section 34.040.

29 3. The contract shall be let to the lowest and best offeror as  
30 determined by the evaluation criteria established in the request for  
31 proposal and any subsequent negotiations conducted under this  
32 section. In determining the lowest and best offeror, as provided in the  
33 request for proposals and under rules promulgated by the  
34 commissioner, negotiations may be conducted with responsible offerors  
35 who submit proposals selected by the commissioner on the basis of  
36 reasonable criteria for the purpose of clarifying and assuring full  
37 understanding of and responsiveness to the solicitation  
38 requirements. Those offerors shall be accorded fair and equal  
39 treatment with respect to any opportunity for negotiation and  
40 subsequent revision of proposals. Revisions may be permitted after  
41 submission and before award for the purpose of obtaining best and  
42 final offers. In conducting negotiations there shall be no disclosure of  
43 any information derived from proposals submitted by competing  
44 offerors. The commissioner shall have the right to reject any or all  
45 proposals and advertise for new proposals or purchase the required  
46 supplies on the open market if they can be so purchased at a better  
47 price.

48 4. By January 1, 2016, the commissioner of administration shall  
49 cause an internal examination audit to be performed to examine and  
50 document the cost savings realized by securing any contract under this  
51 section. Such examination shall be made in accordance with generally  
52 accepted auditing standards including such reviews and tests as are  
53 necessary to enable the individual auditing the practices allowed under  
54 this section to come to an informed opinion as to any cost savings or  
55 losses incurred due to securing contracts under this section. The  
56 individual performing the audit shall prepare an audit report and the  
57 commissioner shall deliver the report to the state auditor, the minority  
58 and majority leadership of the general assembly, the chair of the

59 appropriations committee of the senate, and the chair of the budget  
60 committee of the house of representatives by January 1, 2016.

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